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CENTRAL DIST. OF CALIF.
SANTA ANA

BY

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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SANTA ANA DIVISION

13 BRUCE JOHNSON, Derivatively on Behalf)
14 of QUESTCOR PHARMACEUTICALS, INC.,)

15 Plaintiff,

16 vs.

17 DON M. BAILEY, MICHAEL H. MULROY,)
18 STEPHEN L. CARTT, DAVID YOUNG,)
19 VIRGIL D. THOMPSON, MITCHELL J.)
20 BLUTT, NEIL C. BRADSHAW, STEPHEN C.)
21 FARRELL, LOUIS E. SILVERMAN, and)
22 SCOTT M. WHITCUP,

23 Defendants,

24 - and -

25 QUESTCOR PHARMACEUTICALS, INC.,

26 Nominal Party.

Case No. SACV12 - 01718 JST (MLGx)

VERIFIED SHAREHOLDER DERIVATIVE
COMPLAINT FOR BREACH OF FIDUCIARY
DUTY, GROSS MISMANAGEMENT, ABUSE
OF CONTROL, AND UNJUST ENRICHMENT

JURY TRIAL DEMANDED

1 **NATURE OF THE ACTION**

2 1. Plaintiff Bruce Johnson ("Plaintiff"), by and through his undersigned attorneys, hereby
3 submits this Verified Shareholder Derivative Complaint (the "Complaint") for the benefit of nominal
4 defendant Questcor Pharmaceuticals, Inc. ("Questcor" or the "Company") against certain members of
5 its Board of Directors (the "Board") and executive officers seeking to remedy defendants' breaches of
6 fiduciary duties and unjust enrichment.

7 2. According to its public filings, Questcor is a biopharmaceutical company that provides
8 prescription drugs for the treatment of multiple sclerosis, nephrotic syndrome, and infantile spasms
9 indications. It primarily offers H.P. Acthar Gel ("Acthar"), an injectable drug for the treatment of acute
10 exacerbations of multiple sclerosis ("MS") in adults; to induce a diuresis or a remission of proteinuria in
11 the nephrotic syndrome without uremia of the idiopathic type or that due to lupus erythematosus; and as
12 monotherapy for the treatment of infantile spasms in infants and children under two years of age. The
13 company's H.P. Acthar Gel also focuses on rheumatology-related conditions, including collagen
14 diseases and rheumatic disorders. In addition, it offers Doral for the treatment of insomnia. The
15 company sells its Acthar primarily to specialty pharmacies; and Doral to pharmaceutical wholesalers.

16 3. Throughout the relevant time period, defendants issued materially false and misleading
17 statements regarding the Company's business and financial results. Specifically, defendants
18 disseminated false and misleading statements about the effectiveness of Acthar as a treatment for MS
19 and nephrotic syndrome, making it impossible for the public to gain a meaningful or realistic
20 understanding of the drug's prospects and market success.

21 4. As a result of defendants' false statements, Questcor's stock traded at artificially inflated
22 prices, reaching a relevant time period high of \$57.64 per share on July 9, 2012.

23 5. On September 19, 2012, Citron Research ("Citron") reported that Aetna Inc. ("Aetna"),
24 one of the nation's largest insurers, had recently revised its policy concerning Acthar, which would
25 severely limit coverage of Questcor's primary drug. Aetna had engaged in a review of the 19
26 indications for which the U.S. Food and Drug Administration ("FDA") had approved Acthar. Based
27 upon its findings, Aetna determined that clinical research supported only one of the 19
28 indications. In Aetna's clinical policy bulletin issued in connection with its review, Aetna reported that

1 studies suggested that the drug is only “medically necessary” for West syndrome, a rare condition that
2 causes infantile spasms, and not for other indications, such as MS, which are treated with steroids.
3 Typically, Aetna only reimburses for drugs when they are deemed medically necessary. According to
4 an Aetna spokesperson, ““Our previous position was that this was a last-resort treatment. . . We now
5 state that it is not medically necessary because there is no clinical evidence that the drug is more
6 effective than steroids.””

7 6. On this news, Questcor’s stock plummeted \$24.17 per share to close at \$26.35 per share
8 on September 19, 2012, a one-day decline of 48%.

9 7. Then, on September 24, 2012, defendants caused the Company to announce in a Form 8-
10 K filed with the SEC that the U.S. government had initiated an investigation into the Company’s
11 promotional practices.

12 8. On this news, Questcor’s stock dropped another \$11.05 per share to close at \$19.08 per
13 share on September 24, 2012, a one-day decline of 37%.

14 9. The true facts, which were known by the defendants but concealed from the investing
15 public, were as follows:

16 (a) Defendants lacked clinical evidence to support the use of Acthar for indications
17 other than infantile spasms;

18 (b) Defendants had engaged in questionable tactics to promote the sale and use of
19 Acthar in the treatment of MS and nephrotic syndrome; and

20 (c) Defendants lacked a reasonable basis to make positive statements about the
21 Company or its outlook, including statements about the effectiveness of and potential market growth for
22 Acthar.

23 10. As a result of defendants’ false and misleading statements, Questcor’s stock traded at
24 artificially inflated levels. However, after the above revelations seeped into the market, the Company’s
25 shares were hammered by massive sales, sending them down over 67% from their relevant time period
26 high.

27 11. Further, as a result of defendants’ breaches, the price of the Company’s stock still has
28 not recovered and currently trades for around \$19.40 per share.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(2) in that Plaintiffs and defendants are citizens of different states and/or countries and the matter in controversy exceeds \$75,000.00, exclusive of interests and costs. This Court has supplemental jurisdiction over the state law claims asserted herein pursuant to 28 U.S.C. §1367(a). This action is not a collusive one to confer jurisdiction on a court of the United States which it would not otherwise have.

13. Venue is proper in this district because a substantial portion of the transactions and wrongs complained of herein, including defendants' primary participation in the wrongful acts detailed herein, occurred in this district. One or more of the defendants either resides in or maintains executive offices in this district, and defendants have received substantial compensation in this district by engaging in numerous activities and conducting business here, which had an effect in this district. Additionally, nominal defendant Questcor is headquartered in this district.

THE PARTIES

14. Plaintiff is a shareholder of Questcor and has continuously held Questcor stock since July 2012. Plaintiff is a citizen of Maryland.

15. Nominal defendant Questcor is a California corporation with its executives offices located at 1300 Kellogg Drive, Suite D, Anaheim, CA 92807. According to its public filings, the Company provides prescription drugs for the treatment of multiple sclerosis, nephrotic syndrome, and infantile spasms indications.

16. Defendant Don M. Bailey ("Bailey") has served as the Chief Executive Officer ("CEO") and President of the Company since November 2007. In addition, defendant Bailey served as the Interim President of the Company from May 2007 to November 2007. Further, defendant Bailey has served as a director of the Company since May 2006. Upon information and belief, defendant Bailey is a citizen of California.

17. Defendant Michael H. Mulroy ("Mulroy") has served as the Chief Financial Officer ("CFO") of Company since January 2011. Upon information and belief, defendant Mulroy is a citizen of California.

1 18. Defendant Stephen L. Cartt ("Cartt") has served as the Chief Operating Officer ("COO")
2 of Company since March 2005. Upon information and belief, defendant Cartt is a citizen of California.

3 19. Defendant David Young ("Young") has served as the Chief Scientific Officer ("CSO")
4 of the Company since October 2009. Upon information and belief, defendant Young is a citizen of
5 California.

6 20. Defendant Virgil D. Thompson ("Thompson") has served as a director of the Company
7 since January 1996. In addition, defendant Thompson has served as a member of the Board's Audit
8 Committee (the "Audit Committee") and as Chairman of the Board during the relevant time period.
9 Further, defendant Thompson has served as a member of the Board's Compliance Committee (the
10 "Compliance Committee") during the relevant time period. Upon information and belief, defendant
11 Thompson is a citizen of California.

12 21. Defendant Mitchell J. Blutt ("Blutt") has served as a director of the Company since July
13 2010. In addition, defendant Blutt has served as a member of the Audit Committee during the relevant
14 time period. Upon information and belief, defendant Blutt is a citizen of New York.

15 22. Defendant Neil C. Bradsher ("Bradsher") has served as a director of the Company since
16 March 2004. Upon information and belief, defendant Bradsher is a citizen of New York.

17 23. Defendant Stephen C. Farrell ("Farrell") has served as a director of the Company since
18 November 2007. In addition, defendant Farrell has served as the Chairman of the Audit Committee
19 during the relevant time period. Further, defendant Farrell has served as a member of Compliance
20 Committee during the relevant time period. Upon information and belief, defendant Farrell is a citizen
21 of Florida.

22 24. Defendant Louis E. Silverman ("Silverman") has served as a director of the Company
23 since December 2009. Upon information and belief, defendant Silverman is a citizen of California.

24 25. Defendant Scott M. Whitcup ("Whitcup") has served as a director of the Company since
25 February 2012. Upon information and belief, defendant Whitcup is a citizen of Pennsylvania.

26 26. Collectively, defendants Bailey, Mulroy, Cartt, Young, Thompson, Blutt, Bradsher,
27 Farrell, Silverman, and Whitcup shall be referred to herein as the "Defendants."
28

1 27. Collectively, defendants Thomson, Blutt, and Farrell shall be referred to herein as the
2 “Audit Committee Defendants.”

3 28. Collectively, defendants Whitcup, Farrell, and Thompson shall be referred to herein as
4 the “Compliance Committee Defendants.”

5
6 **DEFENDANTS’ DUTIES**

7 29. By reason of their positions as officers, directors, and/or fiduciaries of Questcor and
8 because of their ability to control the business and corporate affairs of Questcor, Defendants owed
9 Questcor and its shareholders fiduciary obligations of good faith, loyalty, and candor, and were and are
10 required to use their utmost ability to control and manage Questcor in a fair, just, honest, and equitable
11 manner. Defendants were and are required to act in furtherance of the best interests of Questcor and its
12 shareholders so as to benefit all shareholders equally and not in furtherance of their personal interest or
13 benefit. Each director and officer of the Company owes to Questcor and its shareholders the fiduciary
14 duty to exercise good faith and diligence in the administration of the affairs of the Company and in the
15 use and preservation of its property and assets, and the highest obligations of fair dealing.

16 30. Defendants, because of their positions of control and authority as directors and/or
17 officers of Questcor, were able to and did, directly and/or indirectly, exercise control over the wrongful
18 acts complained of herein. Because of their advisory, executive, managerial, and directorial positions
19 with Questcor, each of the Defendants had knowledge of material non-public information regarding the
20 Company.

21 31. To discharge their duties, the officers and directors of Questcor were required to exercise
22 reasonable and prudent supervision over the management, policies, practices and controls of the
23 Company. By virtue of such duties, the officers and directors of Questcor were required to, among
24 other things:

25 (a) Exercise good faith to ensure that the affairs of the Company were conducted in
26 an efficient, business-like manner so as to make it possible to provide the highest quality performance
27 of their business;
28

1 (b) Exercise good faith to ensure that the Company was operated in a diligent, honest
2 and prudent manner and complied with all applicable federal and state laws, rules, regulations and
3 requirements, and all contractual obligations, including acting only within the scope of its legal
4 authority; and

5 (c) When put on notice of problems with the Company's business practices and
6 operations, exercise good faith in taking appropriate action to correct the misconduct and prevent
7 its recurrence.

8 32. Pursuant to the Audit Committee's Charter, the members of the Audit Committee are
9 required, *inter alia*, to:

10 (a) Review and discuss the Company's quarterly financial statements with
11 management;

12 (b) Discuss with management the Company's earnings press releases;

13 (c) Discuss with management any of the following, which are brought to the Audit
14 Committee's attention: correspondence from or with regulators or governmental agencies, any
15 employee complaints or any published reports that raise material issues regarding the Company's
16 financial statements, financial reporting process or accounting policies;

17 (d) Discuss with management and outside counsel any legal matters brought to the
18 Audit Committee's attention that could reasonably be expected to have a material impact on the
19 Company's financial statements;

20 (e) Discuss with management the Company's significant financial risk exposures and
21 the actions management has taken to limit, monitor or control such exposures; and

22 (f) Regularly report to, and review with, the Board any issues that arise with respect
23 to the quality or integrity of the Company's financial statements, the Company's compliance with legal
24 or regulatory requirements, or any other matter the Audit Committee determines is necessary or
25 advisable to report to the Board.

26 33. Pursuant to the Compliance Committee's charter, the members of the Compliance
27 Committee are required, *inter alia*, to:

28

1 (a) Review and oversee the Company's Compliance Program, including but not
2 limited to, evaluating its effectiveness and receiving updates about the activities of the Chief
3 Compliance Officer and other compliance personnel;

4 (b) Review the status of the Company's compliance with relevant laws, regulations,
5 and internal procedures (e.g., compliance with U.S. federal healthcare program requirements;
6 compliance with U.S. pharmaceutical product promotional rules and regulations, including with respect
7 to "off-label" and other product promotional activities, unapproved product uses, fair balance, product
8 safety claims, and product superiority or efficacy claims; product manufacturing quality control; clinical
9 studies quality control; and required reporting to the Food and Drug Administration);

10 (c) Review and evaluate internal reports and external data to assess whether there are
11 significant concerns regarding the Company's regulatory and/or compliance practices; and

12 (d) Report at least annually to the Board on (i) the state of the Company's
13 compliance functions, (ii) relevant compliance issues involving the Company of which the Committee
14 has been made aware, including a summary of the results of any compliance investigations conducted
15 by the Company, (iii) any potential patterns of non-compliance identified within the Company, (iv) any
16 significant disciplinary actions against any compliance personnel, and (v) any other issues that may
17 reflect any systemic or widespread problems in compliance or regulatory matters exposing the
18 Company to substantial compliance risk.

19 SUBSTANTIVE ALLEGATIONS

20 A. Background of the Company

21 34. According to its public filings, Questcor is a single product company, with Acthar
22 accounting for nearly all of its revenue. Acthar, a highly specialized, low-volume, premium-priced
23 drug, was originally approved by the FDA in 1952. The injectable hormone has a broad label, as it has
24 been approved by the FDA for use in 19 indications. Acthar is a first-line treatment for infantile
25 spasms, a rare, terrible seizure disorder that affects around 1,500 babies a year in the U.S. Acthar was
26 approved for the treatment of MS relapse in 1978. It was used extensively as a treatment for MS in the
27 1970s, but was largely abandoned in the 1980s after corticosteroids came on the market, as the powerful
28 steroids proved to be a superior alternative to Acthar.

1 35. According to its public filings, Questcor acquired the rights to Acthar in 2001 for
2 \$100,000. At the time, Acthar was almost exclusively being used to treat infantile spasms. In 2007,
3 Defendants caused Questcor to file an application with the FDA to obtain orphan drug status for Acthar
4 for the treatment of infantile spasms. The FDA grants orphan status to a drug that treats a disease
5 affecting fewer than 200,000 people. Orphan status provides a company with seven years of marketing
6 exclusivity. At the same time Defendants filed the Company's application with the FDA, Questcor
7 raised the price of Acthar from \$1,650 per vial to \$23,000 per vial, which represents an overnight
8 increase of over 1300%. As a result of the significant price increase, 2007 was the first year in the
9 history of the drug that Acthar made money. The FDA approved Questcor's orphan drug status
10 application in October 2010.

11 36. Soon after Defendants enacted the tremendous price hike, Questcor, under Defendants'
12 direction, embarked on an aggressive strategy to transform Acthar into a blockbuster drug. Defendants'
13 sole strategic goal was to promote Acthar and expand the use of the drug for other indications, initially
14 focusing on using Acthar for the treatment of MS beginning at the end of 2007, followed by nephrotic
15 syndrome in the first quarter of 2011. Questcor markets Acthar as a second line treatment for MS after
16 patients are not responsive to steroids and markets Acthar as a first-line treatment for nephrotic
17 syndrome.

18 37. As a result of Defendants' new strategy, the Company grew tremendously, with its net
19 sales increasing from \$49.8 million in 2007 to \$218.2 million in 2011. The main source of the
20 Company's growth is the use of Acthar in the treatment of MS and nephrotic syndrome. Currently,
21 infantile spasms, the condition for which it received orphan drug status, accounts for only 6%-10% of
22 the Company's revenues.

23 **B. Defendants' False and Misleading Statements**

24 38. On April 26, 2011, Defendants caused the Company to issue a press release announcing
25 its first quarter 2011 financial results. Defendants reported net income of \$11.2 million, or \$0.17
26 diluted earnings per share ("EPS"), and net sales of \$36.8 million for the first quarter of 2011. The
27 release stated in part:
28

1 “Our strategy to expand the sales force is clearly paying off,” said Don M. Bailey,
 2 President and CEO of Questcor. “Paid MS prescriptions are up sharply from last quarter.
 3 March was a particularly strong month and this momentum has continued so far in
 4 April. We believe that Acthar is filling an increasingly important role in the treatment of
 exacerbations associated with MS and, looking forward, we expect to continue to grow
 sales in this important therapeutic area.”

5 Mr. Bailey added, “We are also encouraged by the early positive results from our small,
 6 dedicated nephrology sales team, which initiated selling efforts at the beginning of March.
 The number of nephrologists

7 39. After issuing its first quarter 2011 financial results on April 26, 2011, Defendants hosted
 8 a conference call for analysts, media representatives and investors. During the call, Defendants
 9 reiterated the record financial results reported in the Company’s press release and defendant Mulroy
 10 discussed the Company’s financial performance in depth. Defendants Bailey and Cartt further
 11 presented prepared statements at the conference call and represented as follows:

12 [BAILEY:] In summary, we are off to a very good start this year as we continue
 13 to execute our straightforward strategy to sell more Acthar. Our decision to expand the
 MS sales force is clearly paying off. Also, our nephrotic syndrome sales force is having
 some early success.

14 * * *

15 We believe this MS sales performance reflects the strong, underlying demand for
 16 Acthar. This growth in demand is being driven by the increasing productivity of our
 expanded sales force. We believe net sales in the MS market are now about 60% of total
 Acthar net sales.

17 * * *

18 [CARTT:] Our expanded promotional activities directed to neurologists
 19 generated significant growth in Acthar prescriptions for MS during the first quarter.
 20 During the quarter we shipped a record 508 paid Acthar prescriptions for the treatment
 of MS relapses. This was an increase of 120% over the year ago period and 44% over
 21 the previous quarter. We believe this performance is a strong signal that the sales force
 expansion has gained traction in the MS market at a faster rate than we expected.

22 * * *

23 Our promotional efforts are increasingly focused on two main goals. One,
 24 convincing an increasing number of prescribers about the benefits of using Acthar with
 their patients and two, helping doctors, nurses and others in their medical practice
 become more effective at identifying potential Acthar patients.

25 * * *

26 In addition to increased promotion by our sales reps, Acthar sales are benefiting
 27 from our sponsored physician speaker programs. In these programs existing Acthar
 28 prescribers present to small groups of physicians their experiences using Acthar and the
 published efficacy and safety data for Acthar in MS relapses.

1 When combined with followup sales calls, these programs appear to be a key driver of
 2 our sales growth. Recently we've been significantly increasing the number of speaker
 programs being conducted and expect to continue doing so in the future.

3 40. On July 26, 2011, Defendants caused the Company to issue a press release announcing
 4 its second quarter 2011 financial results. Defendants reported net income of \$13.9 million, or \$0.21
 5 diluted EPS, and net sales of \$46.0 million for the second quarter of 2011. The release stated in part:

6 "Clearly, Questcor had a terrific quarter," said Don M. Bailey, President and
 7 CEO of Questcor. "Our focus on expanding the use of Acthar in the treatment of MS
 8 exacerbations drove our record second quarter financial performance. Importantly, in
 9 spite of the rapid expansion in the use of Acthar for MS exacerbations, we believe that
 the prescriber base can continue to grow. Accordingly, growing MS sales remains our
 number one priority. Also, following our early success in nephrotic syndrome, we are
 immediately and substantially expanding our nephrology selling effort."

10 41. After issuing its second quarter 2011 financial results on July 26, 2011, Defendants
 11 hosted a conference call for analysts, media representatives and investors. During the call, Defendants
 12 reiterated the record financial results reported in the Company's press release and defendant Mulroy
 13 discussed the Company's financial performance in depth. Defendants Bailey, Cartt and Young further
 14 presented prepared statements at the conference call and represented as follows:

15 [CARTT:] During the quarter we shipped a record 751 paid Acthar prescription
 16 for the treatment of MS relapses. This was an increase of 147% over the year-ago
 17 period, and 48% over the previous quarter. We believe this performance is a strong
 18 signal that the sales force continues to gain traction in the MS market at a faster rate
 than we expected. In addition to rapid growth, our trends at MS are all very good and
 indicate that we are building momentum in this key Acthar market.

19 * * *

20 So, let's summarize. We are very pleased with the robust MS prescription
 21 growth during the quarter and expect continued growth during 2011 and into 2012 as a
 22 result of the continued sustained sales call activity. Our early prescription trends in
 nephrology are surprisingly strong and we are quickly expanding our sales capability in
 MS, which will result in a dramatic increase in the number of nephrologists that we can
 call on at the end of the third quarter, just about two months away.

23 * * *

24 [BAILEY:] Our go-forward plan is extremely simple and remains to sell more
 25 Acthar. That is, gross sales in each of our key markets, MS, NS and IS, and then expand
 26 our commercial effort into other Acthar on-label markets and try to generate Acthar
 27 usage in those markets. In the second quarter we continued our momentum and had
 increasing sales levels combined with strong profit margins and substantial free cash
 flow. We are continuing to focus on MS sales. The commercial team is highly
 28 motivated, highly incentivized and highly productive.

1 Based on positive nephrotic syndrome script growth, we are now increasing our
 2 focus on nephrotic syndrome sales and are expanding our MS selling efforts. We are
 3 applying what we have learned during our four MS sales force increases, so that for
 4 nephrotic syndrome we can accelerate the commercial team buildout.

42. On October 25, 2011, Defendants caused the Company to issue a press release
 5 announcing its third quarter 2011 financial results. Defendants reported net income of \$22.9 million, or
 6 \$0.35 diluted EPS, and net sales of \$59.8 million for the third quarter of 2011. The release stated in
 7 part:

8 "Questcor's strategy to sell more Acthar continues to generate increasing net
 9 sales and earnings," said Don M. Bailey, President and CEO of Questcor. "Our
 10 commercial organization is steadily expanding the number of neurologists,
 11 nephrologists, and child neurologists prescribing Acthar. We believe Acthar has the
 12 potential to benefit many more MS, NS, IS and possibly lupus patients in the future."

13 "Our 77 person Specialty Sales Force continues to drive expanded usage of
 14 Acthar as second-line therapy for MS exacerbations, a key Acthar market," commented
 15 Steve Cartt, Executive Vice President and Chief Business Officer. "Furthermore, during
 16 the third quarter we completed the expansion of our Nephrology Sales Force from 5 to
 17 28 representatives, with all new personnel being fully trained and making initial sales
 18 calls by October 1st. Despite the inherent disruption involved with this expansion, paid
 19 nephrotic syndrome Acthar prescriptions increased during the quarter. September was a
 20 particularly strong month for both MS and NS sales."

43. After issuing its third quarter 2011 financial results on October 25, 2011, Defendants
 21 hosted a conference call for analysts, media representatives and investors. During the call, Defendants
 22 reiterated the record financial results reported in the Company's press release and defendant Mulroy
 23 discussed the Company's financial performance in depth. Defendants Bailey and Cartt further
 24 presented prepared statements at the conference call and represented as follows:

25 [CARTT:] [W]e shipped 886 paid Acthar prescription for the treatment of MS
 26 relapses during the third quarter of 2011. This was an increase of 174% over the year-
 27 ago period. In addition to strong script growth, other positive trends in our MS business
 28 indicate that we are building momentum in this key Acthar market.

* * *

29 Switching gears to the subject of new scientific data, several Acthar-related
 30 abstracts will be presented in November at the annual meeting of the America Society of
 31 Nephrology, or ASN, held this year in Philadelphia. These abstracts are available on
 32 ASN's website, www.asnonline.org. The new data provides further insight into the
 33 immune-modulating and other therapeutic properties of Acthar specifically relating to
 34 kidney disease.

35 We believe availability of this data provides further evidence for the direction
 36 [sic] action of Acthar on kidney disease. Importantly, the first three abstracts shown may
 37 specifically enhance our near-term selling efforts in nephrology. Our emerging

1 understanding of the apparent immune-modulating properties of Acthar is also
2 beginning to encourage us to investigate the potentially broader therapeutic applications
3 of Acthar in other inflammatory and autoimmune diseases, many of which are already
4 on the product label for Acthar.

5 44. On January 11, 2011, *TheStreetSweeper.org* ("*Streetsweeper*") announced that it had
6 initiated a short position in Questcor. *StreetSweeper* further reported that it intended to issue the first
7 article in a two-part investigative series about Questcor in the following week. According to
8 *StreetSweeper*:

9 The first article raises serious questions about the aggressive marketing practices
10 that [Questcor] has used to generate explosive – but potentially unsustainable – growth
11 in prescriptions for its only drug while the second story further examines QCOR's
12 business practices, while taking a hard look at the leaders who have struck it rich as a
13 result of the company's controversial growth strategy.

14 45. Thereafter, Defendants went to extensive lengths to refute the claims raised by
15 *StreetSweeper* and defend the Company's business practices. As a result, Questcor's stock continued to
16 be artificially inflated.

17 46. For instance, on January 11, 2012, Defendants caused the Company to issue a press
18 release entitled "Questcor Pharmaceuticals Issues Statement," which stated in part:

19 Questcor Pharmaceuticals, Inc. today announced it became aware that an
20 investor blog is preparing to issue a report regarding the Company's marketing and
21 business practices. Questcor issued the following statement:

22 The Company believes that its marketing and business practices are consistent
23 with regulatory requirements and industry standard practices. Questcor markets H.P.
24 Acthar® Gel for the treatment of acute exacerbations of multiple sclerosis (MS) in
25 adults, the treatment of nephrotic syndrome, and the treatment of infantile spasms in
26 children under two years of age. The Company maintains a compliance program, which
27 is led by an experienced compliance officer and includes the active participation of
28 Questcor's executive management team. Questcor attributes its success to the ability of
Acthar to potentially address the unmet medical need associated with MS exacerbations
and nephrotic syndrome. The Company is committed to providing access to Acthar to
patients who need it, and marketing Acthar in accordance with regulatory requirements
and industry standard practices. Questcor plans to speak with the publication to discuss
the Company and its marketing and business practices.

47. On February 22, 2012, Defendants caused the Company to issue a press release
announcing its fourth quarter and full year 2011 financial results. Defendants reported net income of
\$31.6 million, or \$0.48 diluted EPS, and net sales of \$75.5 million for the fourth quarter of 2011.
Additionally, Defendants reported net income of \$79.6 million, or \$1.21 diluted EPS, and net sales of
\$218.2 million for fiscal year 2011. The release stated in part:

1 “Net sales growth in the fourth quarter was driven by the increasing numbers of
2 physicians who are recognizing the potential for Acthar to help patients with MS and
3 NS,” said Don M. Bailey, President and CEO of Questcor. “We are particularly
4 encouraged by the growing number of physicians who recognize the therapeutic value
5 of Acthar in their practices, especially for those patients who have not adequately
6 responded to other treatments.”

7 48. After issuing its fourth quarter and full year 2011 financial results on February 22, 2012,
8 Defendants hosted a conference call for analysts, media representatives and investors. During the call,
9 Defendants reiterated the record financial results reported in the Company’s press release and defendant
10 Mulroy discussed the Company’s financial performance in depth. Defendants Bailey, Cartt and Young
11 further presented prepared statements at the conference call and represented as follows:

12 [BAILEY:] As we look ahead to 2012 and beyond, we believe we can
13 sustainably grow our Business due to three key factors. First, Acthar provides benefits to
14 many difficult to treat patients not responding to other treatments. Second, our market
15 penetration in terms of the total number of neurologists and nephrologists prescribing
16 Acthar, while growing, remains relatively small. And third, we have assembled an
17 excellent, experienced commercial team to pursue our growth plan. Our focus remains
18 on helping patients with serious, difficult to treat medical conditions.

19 * * *

20 A key priority of ours continues to be educating both physicians and patients
21 about how Acthar is a viable treatment option for MS exacerbations or relapses,
22 particularly in those patients not well served by steroids, which are generally considered
23 first line therapy by most neurologists. This focus drove our year-over-year increase in
24 the number of paid Acthar prescriptions for MS. In the fourth quarter of 2011, there
25 were 945 paid and shipped Acthar MS prescriptions, up from 354 scripts in the fourth
26 quarter of 2010. This is a 167% year-over-year increase. There were several factors
27 behind this growth – positive patient outcome; increasing awareness among neurologists
28 about how best to incorporate Acthar into their practices; continued excellent Acthar
insurance coverage for MS relapses; and the increase in productivity of our MS
commercial team – all combined to generate this growth.

* * *

21 We believe that because Acthar provides real and substantial benefits to many
22 patients who would otherwise continue to suffer the effects of serious, difficult-to-treat
23 disorders, our growth should be sustainable. We are expanding the Organization and
24 associated infrastructure to address the significant growth opportunities in front of us. At
25 the same time, we are off to a good start to 2012, with January MS, NS, and IS paid
26 prescription each having a good month.

27 49. On April 24, 2012, Defendants caused the Company to issue a press release announcing
28 its first quarter 2012 financial results. Defendants reported net income of \$38.5 million, or \$0.58
diluted EPS, and net sales of \$96.0 million for the first quarter of 2012. The release stated in part:

1 51. On July 9, 2012, Questcor's stock reached its relevant time period high of \$57.64 per
2 share.

3 52. On July 10, 2012, Citron issued an in-depth research report regarding Questcor. Citron
4 expanded on the *StreetSweeper* articles and further raised concerns about the Company's marketing
5 strategy and a possible generic threat to Acthar. The report discussed the competitive landscape for
6 Acthar and was critical of the Company's assertions that there were significant barriers to entry into the
7 market. Citron further questioned whether there was credible scientific data to support Questcor's
8 aggressive strategy to expand the use of Acthar for indications other than infantile spasms. In addition,
9 the research report analyzed the Company's marketing expenses and questioned how the drug was
10 being marketed to doctors. The Citron report further condemned Questcor for the lack of any
11 meaningful research and development being engaged in by the biopharmaceutical company. The report
12 noted: "Just the insider selling over the last year represents more cash than Questcor has spent on
13 research and development over its entire lifespan." The research report was not only critical of the
14 amount of insider selling over the past year but it was also critical about its timing given the Company
15 was buying back large amounts of Company stock at the same time the insiders were selling their
16 shares.

17 53. Despite the serious allegations raised in the Citron report, Defendants continued to refute
18 the claims and portrayed the claims as being made by a short seller. As a result, Questcor's stock
19 continued to be artificially inflated.

20 54. On July 24, 2012, Defendants caused the Company to issue a press release announcing
21 its second quarter 2012 financial results. Defendants reported net income of \$41.5 million, or \$0.65
22 diluted EPS, and net sales of \$112.5 million for the second quarter of 2012. The release stated in part:

23 "In the second quarter, we surpassed \$100 million in quarterly net sales for the
24 first time in our history," said Don M. Bailey, President and CEO of Questcor. "Our
25 strong financial results were driven by increasing usage of Acthar among nephrologists
26 and neurologists. With the expansion of our Nephrology Sales Force now complete, the
27 expansion of our Neurology Sales Force nearing completion, and the initial detailing
28 effort of a small sales force in Rheumatology just getting started, we are optimistic
about the potential for Acthar to help an increasing number of patients with serious,
difficult-to-treat autoimmune and inflammatory disorders."

55. After issuing its second quarter 2012 financial results on July 24, 2012, Defendants hosted a conference call for analysts, media representatives and investors. During the call, Defendants reiterated the record financial results reported in the Company's press release and defendant Mulroy discussed the Company's financial performance in depth. Defendants Bailey, Cartt and Young further presented prepared statements at the conference call and represented as follows:

[BAILEY:] We made significant progress with our business in the last three months. Financial performance again improved. We almost doubled the number of shipped vials in the quarter, more than doubled net sales, and tripled earnings from the year-ago quarter. Paid scripts increased for both nephrotic syndrome and MS. We expanded two sales forces and started building a third sales force in Rheumatology, using the same formula that worked so well with MS and nephrotic syndrome. And, we also made good progress in both our science and compliance programs.

* * *

[CARTT:] Very importantly, we often hear anecdotally that Acthar treatment is producing positive results for patients. This is not always the case, of course; not everyone responds. But, clearly, many patients are benefiting significantly from this drug, and there are few other treatment options available. All these factors are contributing to the rapid increase in Acthar usage in nephrotic syndrome.

* * *

Our year-over-year growth in MS paid scripts is due to positive patient outcomes, increasing awareness about how Acthar can help patients who are not fully benefiting from other therapies, continued excellent Acthar insurance coverage for MS relapse, and the increasing productivity of our MS commercial team.

* * *

[YOUNG:] As you can see by our operating results reported in today's press release, we have been increasing our investment in research and development to better understand the unique immunomodulator and anti-inflammatory properties of Acthar Gel. Our subjects – our objectives are to produce additional supporting data for the commercial team for on-label indications and to expand our Acthar Gel used through FDA beyond current on-label indications. Surprisingly, previous owners of Acthar Gel in the pharmaceutical industry in general have not invested in ACTH-based research. Therefore, there are many research areas that still need to be assessed by our R&D group in order to better understand ACTH in the clinical role of Acthar Gel.

* * *

In summary, I'd like to bring you back to my initial topic on R&D expansion. As we have previously reported, our R&D efforts have been and are continuing to focus on three areas. First, producing additional supporting data for the commercial team for on-label indications. Second, expanding Acthar Gel use beyond the existing on-label indications and following FDA processes. And third, our greatest priority, better understanding the unique chemical, biological, and clinical characteristics of Acthar Gel. Our research results from this third area, thus far, suggest that developing a generic drug for Acthar Gel is very challenging. All three areas of research are intended to

1 advance the science of Acthar Gel in order to further help patients with devastating
2 autoimmune and inflammatory diseases.

3 **C. The Truth Begins to Emerge**

4 56. On September 19, 2012, Citron reported that Aetna, one of the nation's largest insurers,
5 had recently revised its policy concerning Acthar, which would severely limit coverage of Questcor's
6 primary drug. Aetna had engaged in a review of the 19 indications for which the FDA had approved
7 Acthar. Based upon its findings, Aetna decided that clinical research supported only one of the 19
8 indications. In Aetna's clinical policy bulletin issued in connection with its review, Aetna reported that
9 studies suggested that the drug is only "medically necessary" for West syndrome, a rare condition that
10 causes infantile spasms, and not for other indications, such as MS, that are treated with steroids. Aetna
11 generally only reimburses for drugs when they are deemed medically necessary. According to an Aetna
12 spokesperson, "Our previous position was that this was a last-resort treatment. . . . We now state that it
13 is not medically necessary because there is no clinical evidence that the drug is more effective than
14 steroids."

15 57. On this news, Questcor's stock plummeted \$24.16 per share to close at \$26.25 per share
16 on September 19, 2012, a one-day decline of nearly 48% on high volume.

17 58. Subsequently, on September 19, 2012, Defendants caused the Company to issue a press
18 release entitled "Questcor Comments on Insurance Policy Bulletin," which stated in part:

19 The Company is continuing to review the Clinical Policy Bulletin related to Acthar from
20 Aetna Inc. ("Aetna"). Currently, the Company does not believe that the bulletin
21 represents a material change in insurance coverage for Acthar by Aetna. During 2012,
22 Aetna has accounted for approximately 5% of the Company's shipped prescriptions for
23 Acthar. Based on its current assessment of the Clinical Policy Bulletin, the Company
24 does not believe that the bulletin will have a material impact on the Company's results
25 of operations.

26 59. Then, on September 24, 2012, Defendants announced in a Form 8-K filed with the SEC
27 that the U.S. government had initiated an investigation into the Company's promotional practices.

28 60. After this news, Questcor's stock dropped \$11.05 per share to close at \$19.08 per share
on September 24, 2012, a decline of 37% on high volume.

61. The true facts, which were known by the Defendants but concealed from the investing
public, were as follows:

1 (a) Defendants lacked clinical evidence to support the use of Acthar for indications
2 other than infantile spasms;

3 (b) Defendants had engaged in questionable tactics to promote the sale and use of
4 Acthar in the treatment of MS and nephrotic syndrome; and

5 (c) Defendants lacked a reasonable basis to make positive statements about the
6 Company or its outlook, including statements about the effectiveness of and potential market growth for
7 Acthar.

8 62. As a result of Defendants' false and misleading statements, Questcor stock traded at
9 artificially inflated levels. However, after the above revelations seeped into the market, the Company's
10 shares were hammered by massive sales, sending them down 67% from their relevant time period high.

11 63. Further, as a result of Defendants' breaches of fiduciary duty and other misconduct, the
12 price of the Company's stock still has not recovered and currently trades for around \$19.40 per share.

13 **DERIVATIVE AND DEMAND ALLEGATIONS**

14 64. Plaintiff brings this action derivatively in the right and for the benefit of Questcor to
15 redress the breaches of fiduciary duty and other violations of law by Defendants.

16 65. Plaintiff will adequately and fairly represent the interests of Questcor and its
17 shareholders in enforcing and prosecuting its rights.

18 66. The Board currently consists of the following seven (7) directors: defendants Thompson,
19 Bailey, Blutt, Bradsher, Farrell, Silverman, and Whitcup. Plaintiff has not made any demand on the
20 present Board to institute this action because such a demand would be a futile, wasteful and useless act,
21 for the following reasons:

22 (a) At all relevant times, defendants Thompson, Blutt, and Farrell served as members
23 of the Audit Committee. Pursuant to the Company's Audit Committee Charter, the members of the
24 Audit Committee were and are responsible for, *inter alia*, reviewing the Company's annual and
25 quarterly financial reports and reviewing the integrity of the Company's internal controls. Defendants
26 Thompson, Blutt, and Farrell breached their fiduciary duties of due care, loyalty, and good faith,
27 because the Audit Committee, *inter alia*, allowed or permitted the Company to disseminate false and
28 misleading statements in the Company's SEC filings and other disclosures and caused the above-

1 discussed internal control failures, which resulted in the improper marketing of Acthar. Therefore,
2 defendants Thompson, Blutt, and Farrell each face a substantial likelihood of liability for their breach of
3 fiduciary duties and any demand upon them is futile;

4 (b) At all relevant times, defendants Whitcup, Farrell, and Thompson served as
5 members of the Compliance Committee. Pursuant to the Company's Compliance Committee Charter,
6 the members of the Compliance Committee were and are responsible for, *inter alia*, reviewing and
7 reporting to the Board the status of the Company's compliance with relevant laws, regulations, and
8 internal procedures including compliance with U.S. pharmaceutical product promotional rules and
9 regulations. Defendants Whitcup, Farrell, and Thompson breached their fiduciary duties of due care,
10 loyalty, and good faith, because the Compliance Committee, *inter alia*, allowed or permitted the
11 Company to engage in the illicit promotional activities described herein. Therefore, defendants
12 Whitcup, Farrell, and Thompson each face a substantial likelihood of liability for their breach of
13 fiduciary duties and any demand upon them is futile; and

14 (c) The principal professional occupation of defendant Bailey is his employment
15 with Questcor as its CEO and President, pursuant to which he has received and continues to receive
16 substantial monetary compensation and other benefits. In addition, according to the Company's Proxy
17 Statement filed on March 30, 2012, Defendants have admitted that defendant Bailey is not independent.
18 Thus, defendant Bailey lacks independence from demonstrably interested directors, rendering him
19 incapable of impartially considering a demand to commence and vigorously prosecute this action.

20
21 **COUNT I**

22 **AGAINST ALL DEFENDANTS FOR BREACH OF FIDUCIARY DUTY FOR**
23 **DISSEMINATING FALSE AND MISLEADING INFORMATION**

24 67. Plaintiff incorporates by reference and realleges each and every allegation set forth
25 above, as though fully set forth herein.

26 68. As alleged in detail herein, each of the Defendants (and particularly the Audit Committee
27 Defendants) had a duty to ensure that Questcor disseminated accurate, truthful and complete
28 information to its shareholders.

69. Defendants violated their fiduciary duties of care, loyalty, and good faith by causing or allowing the Company to disseminate to Questcor shareholders materially misleading and inaccurate information through, *inter alia*, SEC filings, press releases, conference calls, and other public statements and disclosures as detailed herein. These actions could not have been a good faith exercise of prudent business judgment.

70. As a direct and proximate result of Defendants' foregoing breaches of fiduciary duties, the Company has suffered significant damages, as alleged herein.

COUNT II

AGAINST ALL DEFENDANTS FOR BREACH OF FIDUCIARY DUTIES FOR FAILING TO MAINTAIN INTERNAL CONTROLS

71. Plaintiff incorporates by reference all preceding and subsequent paragraphs as if fully set forth herein.

72. As alleged herein, each of the Defendants (and particularly the Audit Committee Defendants) had a fiduciary duty to, among other things, exercise good faith to ensure that the Company's financial statements were prepared in accordance with GAAP, and, when put on notice of problems with the Company's business practices and operations, exercise good faith in taking appropriate action to correct the misconduct and prevent its recurrence.

73. Defendants willfully ignored the obvious and pervasive problems with Questcor's internal controls and practices and procedures and failed to make a good faith effort to correct these problems or prevent their recurrence.

74. As a direct and proximate result of the Defendants' foregoing breaches of fiduciary duties, the Company has sustained damages.

COUNT III

AGAINST ALL DEFENDANTS FOR BREACH OF FIDUCIARY DUTIES FOR FAILING TO PROPERLY OVERSEE AND MANAGE THE COMPANY

75. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

1 positions of authority by causing or allowing Questcor to misrepresent material facts regarding its
2 financial position and business prospects.

3 86. As a direct and proximate result of Defendants' abuse of control, Questcor has sustained
4 significant damages.

5 87. As a result of the misconduct alleged herein, Defendants are liable to the Company.

6 88. Plaintiff, on behalf of Questcor, has no adequate remedy at law.

7 **COUNT VI**

8 **AGAINST ALL DEFENDANTS FOR GROSS MISMANAGEMENT**

9 89. Plaintiff incorporates by reference and realleges each and every allegation set forth
10 above, as though fully set forth herein.

11 90. Defendants had a duty to Questcor and its shareholders to prudently supervise, manage
12 and control the operations, business and internal financial accounting and disclosure controls of
13 Questcor.

14 91. Defendants, by their actions and by engaging in the wrongdoing described herein,
15 abandoned and abdicated their responsibilities and duties with regard to prudently managing the
16 businesses of Questcor in a manner consistent with the duties imposed upon them by law. By
17 committing the misconduct alleged herein, Defendants breached their duties of due care, diligence and
18 candor in the management and administration of Questcor's affairs and in the use and preservation of
19 Questcor's assets.

20 92. During the course of the discharge of their duties, Defendants knew or recklessly
21 disregarded the unreasonable risks and losses associated with their misconduct, yet Defendants caused
22 Questcor to engage in the scheme complained of herein which they knew had an unreasonable risk of
23 damage to Questcor, thus breaching their duties to the Company. As a result, Defendants grossly
24 mismanaged Questcor.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff demands judgment as follows:
27
28

1 A. Against all Defendants and in favor of the Company for the amount of damages
2 sustained by the Company as a result of Defendants' breaches of fiduciary duties;

3 B. Directing Questcor to take all necessary actions to reform and improve its corporate
4 governance and internal procedures to comply with applicable laws and to protect the Company and its
5 shareholders from a repeat of the damaging events described herein, including, but not limited to,
6 putting forward for shareholder vote resolutions for amendments to the Company's By-Laws or Articles
7 of Incorporation and taking such other action as may be necessary to place before shareholders for a
8 vote a proposal to strengthen the Board's supervision of operations and develop and implement
9 procedures for greater shareholder input into the policies and guidelines of the Board;

11 C. Awarding to Questcor restitution from Defendants, and each of them, and ordering
12 disgorgement of all profits, benefits and other compensation obtained by the Defendants;

14 D. Awarding to Plaintiff the costs and disbursements of the action, including reasonable
15 attorneys' fees, accountants' and experts' fees, costs, and expenses; and

16 E. Granting such other and further relief as the Court deems just and proper.

17 **JURY DEMAND**

18 Plaintiff demands a trial by jury.

19
20 DATED: October 4, 2012

THE WEISER LAW FIRM, P.C.

21
22 
23 KATHLEEN A. HERKENHOFF (168562)

24 12707 High Bluff Drive, Suite 200
25 San Diego, CA 92130
26 Telephone: 858-794-1441
27 Facsimile: 858-794-1450
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RICHARD A. MANISKAS
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Wayne, PA 19087
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Facsimile: (484) 450-2582

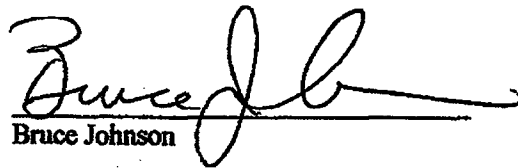
Counsel for Plaintiff

VERIFICATION

I, Bruce Johnson, under penalty of perjury, state as follows:

I am the Plaintiff in the above-captioned action. I have read the foregoing Complaint and authorized its filing. Based upon the investigation of my counsel, the allegations in the Complaint are true to the best of my knowledge, information and belief.

DATED: 10/3/2012


Bruce Johnson

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Josephine Tucker and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

SACV12- 1718 JST (MLGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIABRUCE JOHNSON, Derivatively on Behalf of
QUESTCOR PHARMACEUTICALS, INC.

CASE NUMBER

SACV12-01718 JST (MLGx)

PLAINTIFF(S)

v.

DON M. BAILEY,
SEE ATTACHMENT A FOR ADD'L DEFENDANTS

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S):

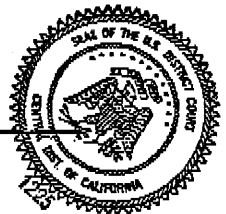
A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Kathleen A. Herkenhoff, whose address is The Weiser Law Firm, P.C., 12707 High Bluff Drive, # 200, San Diego, CA 92130. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

*Lori Wagers*Dated: OCT -4 2012By: LORI WAGERS
Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

ATTACHMENT "A" TO SUMMONS (Defendants)

Michael H. Mulroy, Stephen L. Cartt, David Young, Virgil D. Thompson, Mitchell J. Blutt, Neil C. Bradsher, Stephen C. Farrell, Louis E. Silverman and Scott M. Whitcup,

Defendants

And

QUESTCOR PHARMACEUTICALS, INC.,

Nominal Party

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> Bruce Johnson, Derivatively on behalf of Questcor Pharmaceuticals, Inc. | DEFENDANTS Don M. Bailey, see attachment for add'l defendants |
| (b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Kathleen A. Herkenhoff, THE WEISER LAW FIRM, P.C. 12707 High Bluff Drive, # 200, San Diego, CA 92130 Phone: 858-794-1441 | Attorneys (If Known) |

| II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;"></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> <th style="text-align: left;"></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DEF</th> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table> | | PTF | DEF | | PTF | DEF | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 | Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
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| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 | | | | | | | | | | | | | | | | | | | | |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | | | | | | | | | | | | | | | | | | | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | | | | | | | | | | | | | | | | | | | |

IV. ORIGIN (Place an X in one box only.)
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)
CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Jurisdictionally under U.S.C. Sec. 1332(a)(2) and Jurisdictionally under U.S.C. Sec. 1367(a)

VII. NATURE OF SUIT (Place an X in one box only.)

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| <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fed Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes | <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input checked="" type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |
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FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF COVER SHEET, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

| | |
|---------------------------|-------------------------------------------------------------------------------------------------|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | Maryland |

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

| | |
|---------------------------|-------------------------------------------------------------------------------------------------|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Orange County | San Mateo County, San Diego County, Maryland, New York, Pennsylvania |

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

| | |
|---------------------------|-------------------------------------------------------------------------------------------------|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Orange County | |

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Robert A. Hinkley Date 10-4-2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |

ATTACHMENT "A" TO CIVIL COVER SHEET (Defendants)

Michael H. Mulroy, Stephen L. Cartt, David Young, Virgil D. Thompson, Mitchell J. Blutt, Neil C. Bradsher, Stephen C. Farrell, Louis E. Silverman and Scott M. Whitcup,

Defendants

And

QUESTCOR PHARMACEUTICALS, INC.,

Nominal Party